



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0839; FRL-9945-89-Region 4]

Determination of Attainment; Atlanta, Georgia; 2008 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Atlanta, Georgia, 2008 Ozone National Ambient Air Quality Standard (NAAQS) Moderate Nonattainment Area (“Atlanta Area” or the “Area”) has attained the 2008 8-hour ozone NAAQS. This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data showing that the Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2013-2015 monitoring period. If EPA finalizes this proposed action, the requirement for this Area to submit an attainment demonstration and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, and other planning state implementation plans (SIPs) related to attainment of the 2008 8-hour ozone NAAQS will be suspended until EPA redesignates the Area to attainment, approves a redesignation substitute, or determines that the Area has violated the 2008 8-hour ozone NAAQS. This proposed attainment determination does not constitute a redesignation to attainment. The Atlanta Area will remain in nonattainment status for the 2008 8-hour ozone NAAQS until such time as the State requests a redesignation to attainment and EPA determines

that the Atlanta Area meets the Clean Air Act (CAA or Act) requirements for redesignation, including an approved maintenance plan.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0839, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta,

Georgia 30303-8960. Ms. Spann can be reached via phone at (404) 562-9029 or via electronic mail at spann.jane@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (annual fourth-highest daily maximum 8-hour average concentration, averaged over three years) to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008-2010) of air monitoring data as a nonattainment area. *See* 77 FR 30088 (May 21, 2012). The Atlanta Area, consisting of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale counties, was designated as a marginal ozone nonattainment area. *See* 40 CFR 81.311. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012-2014 monitoring data. The Atlanta Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015, and therefore on April 11, 2016, the EPA Administrator signed a final rule reclassifying the Atlanta Area from a marginal nonattainment area to a moderate nonattainment area for the 2008 8-hour ozone standard. A pre-publication version of the final rule can be found at EPA's website at: <https://www.epa.gov/sites/production/files/2016->

04/documents/20160411fr.pdf. Moderate areas are required to attain the 2008 8-hour ozone NAAQS by no later than July 20, 2018, six years after the effective date of the initial nonattainment designations. *See* 40 CFR 51.1103. Air quality monitoring data from the 2013-2015 monitoring period show that the Atlanta Area is now attaining the 2008 8-hour ozone NAAQS.

Under the provisions of EPA's ozone implementation rule for the 2008 8-hour ozone NAAQS (40 CFR part 51, subpart AA), if EPA issues a determination that an area is attaining the relevant standard, also known as a Clean Data Determination, the area's obligations to submit an attainment demonstration and associated RACM, RFP, contingency measures, and other planning SIPs related to attainment of the 2008 8-hour ozone NAAQS are suspended until EPA: (i) redesignates the area to attainment for the standard or approves a redesignation substitute, at which time those requirements no longer apply; or (ii) EPA determines that the area has violated the standard, at which time the area is again required to submit such plans. *See* 40 CFR 51.1118. While these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval.

An attainment determination is not equivalent to a redesignation under section 107(d)(3) of the CAA. The designation status of the Atlanta Area will remain nonattainment for the 2008 8-hour ozone NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan, and redesignates the Area. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Atlanta Area based on any new or revised ozone NAAQS, and the determination of attainment

remains in effect regardless of whether EPA designates this Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

II. EPA's Analysis

The 2008 8-hour ozone NAAQS are met at a monitor when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at the ozone monitor is less than or equal to 0.075 ppm based on complete, consecutive calendar years of certified, quality-assured ambient air monitoring data. *See* 40 CFR 50.15; 40 CFR part 50, appendix P. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each monitor within the area, then the area is attaining the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than or equal to 90 percent, and no single year has less than 75 percent data completeness as determined in 40 CFR part 50, appendix P. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS).

EPA has reviewed the complete, quality-assured, and certified ozone ambient air monitoring data for the 2013-2015 monitoring period for the Atlanta Area. The design values for each monitor for this period are less than or equal to 0.075 ppm, and all of the monitors meet the data completeness requirements (*see* Table 1, below). Based on this data and consistent with the requirements contained in 40 CFR part 50, EPA has preliminarily concluded that this Area has attained the 2008 8-hour ozone NAAQS.

Table 1 – Atlanta Area 4th Highest Daily Maximum Ozone 8-hour Averages and 8-Hour Ozone Design Values for 2013-2015

County	Monitor ID	4 th Highest Daily Maximum Value			Design Value (2013-2015)
		2013	2014	2015	
Cobb	130670003	67	63*	66	65*
Coweta	130770002	53	67	66	62
Dawson	130850001	63	66	63	64
DeKalb	130890002	62	70	71	67
Douglas	130970004	63	65	70	66
Fulton	131210055	69	73	77	73
Gwinnett	131350002	69	68	71	69
Henry	131510002	70	75	70	71
Paulding	132230003	62	59	65	62
Pike	132319991	64	66	68	66
Rockdale	132470001	71	79	68	72

*Georgia temporarily shut down the monitor during a portion of the 2014 monitoring season due to construction at the National Guard Depot.

The data in Table 1 are taken from EPA's AQS database, available at: <https://www.epa.gov/aqs>.

The AQS report with this data is available in the docket for this rulemaking.

III. Proposed Action

EPA is proposing to determine that the Atlanta Area has attained the 2008 8-hour ozone NAAQS. This proposed determination is based upon complete, quality assured, and certified ambient air monitoring data showing that the Atlanta Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2013–2015 monitoring period. If EPA finalizes this proposal, the requirement for this Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIPs related to attainment of the 2008 8-hour ozone NAAQS will be suspended until EPA redesignates the Area to attainment, approves a redesignation substitute, or determines that the Area has violated the standard.

IV. Statutory and Executive Order Reviews

This proposed attainment determination would, if finalized, result in the suspension of certain federal requirements and would not impose any additional requirements. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) and will not impose substantial direct costs on tribal governments or preempt tribal law because it merely makes a determination based on air quality data.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 20, 2016.

Heather McTeer Toney,

Regional Administrator,

Region 4.

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